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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,432	12/04/2003	Ivan Sepetka	005-005-C1	8390
32746	7590	05/03/2007		
HOEKENDIJK & LYNCH, LLP P.O. BOX 4787 BURLINGAME, CA 94011-4787			EXAMINER KOTINI, PAVITRA	
			ART UNIT	PAPER NUMBER
			3731	
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			05/03/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

ED

Office Action Summary	Application No. 10/729,432	Applicant(s) SEPETKA ET AL.	
	Examiner Pavitra Kotini	Art Unit 3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-51 is/are pending in the application.
- 4a) Of the above claim(s) 27-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 38-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election **without** traverse of the apparatus, claims, 38-51, in the reply filed on 4/02/07 is acknowledged. Claims 27-37 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 41-44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the above listed claims are unclear because they are dependent on claim 38, which is an apparatus claim, but the claims state: "the method of claim 38". Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 38- 41 and 42-44 are rejected under 35 U.S.C. 102(b) as being anticipated by Pierce (US-6152956).

Pierce discloses a device for treating an aneurysm comprising:

Regarding **claim 38**, a cover (40, 50, or 52), a delivery catheter (34) having an expandable element (32) and a sheath (33), the cover being mounted around the expandable element (col.5, lines 40-45), the sheath being retractable and overlying the cover thereby trapping the cover between the sheath and expandable element (col.6, lines 8-12), the sheath being movable to a position in which the cover is exposed to permit expansion of the expandable element and the cover (col.6, lines 30-39).

Regarding **claim 39**, the delivery catheter has a longitudinal axis (fig. 4); and the cover is wrapped around the balloon in the collapsed position without folds (col.5, lines 40-45).

Regarding **claim 41**, the cover has a metallic frame and an impermeable portion mounted to the frame which covers the neck of the aneurysm (col.5, lines 25-40).

Regarding **claim 42**, the sheath is folded over itself at a distal end, the sheath being pulled back when exposing the cover (col.6, lines 8-12).

Regarding **claim 43**, the sheath comprises PTFE (col.5, lines 48-49).

Regarding **claim 44**, the delivery catheter has a single lumen which receives a guidewire (30; col.6, lines 31-26).

Claims 45-51 are rejected under 35 U.S.C. 102(b) as being anticipated by Kupiecki al. (US-6096034).

Kupiecki discloses a device for treating an aneurysm comprising:

Regarding **claim 45**, a proximal hub (32); a distal hub (33); and a plurality of filaments (108, 119) extending between the proximal and distal hubs, the filaments biasing the proximal and distal hubs towards one another when moving from a collapsed position to an expanded position (figs. 2A-2C).

Regarding **claim 46**, the plurality of filaments are 2-16 filaments (fig. 2A, 5, and 6).

Regarding **claim 47**, the plurality of filaments form a generally concave surface which covers a neck of an aneurysm when positioned in the aneurysm (the filaments conform to the shape of the aneurysm and form a circular shape, thereby a concave surface that covers the neck of the aneurysm; figs. 4C, 9A).

Regarding **claim 48**, the plurality of filaments form a generally convex surface opposite the concave surface (figs. 4C and 9A).

Regarding **claim 49**, a catheter (110) having a lumen; and a manipulator (15) extending through the lumen and contacting the proximal hub.

Regarding **claim 50**, a source of power coupled to the manipulator (col.10, lines 22-37; fig. 1B).

Regarding **claim 51**, it is old and well established in the medical arts that the source of power is an RF generator. See for example, US patent # 6270495, 6231597, 6217585, and 6019757.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pierce (US-6152956) in view of Wang (US- 6379379).

Pierce discloses the invention substantially as claimed above, but fails to disclose an adhesive on an outer surface of the cover.

However, Wang teaches an adhesive on the stent (col.8, lines 61-68). Therefore, it would have been obvious to a person of ordinary skill in the art, at the time of the invention, to modify the cover as disclosed by Pierce to include an adhesive coating as taught by Wang. Such a modification would gain the advantage of ensuring the sheath is partially at least secured to the cover.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pavitra Kotini whose telephone number is 571-272-0624. The examiner can normally be reached on M-F 8:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should


you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

P.Kotini
AU 3731


ANH TUAN T. NGUYEN
SUPERVISORY PATENT EXAMINER
4/20/07